IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 11095 of 2007(U)

PETITIONER:

V.J.SAJU PROPRIETOR,
M/S.GASCO APPLIANCES, KOLATHERI SHOPPING COMPLEX,
CHITTOOR RAOD, VALANJAMBALAM, KOCHI-16.

BY ADV. SRI.BOBBY JOHN
SRI.TOMSON T.EMMANUEL

RESPONDENTS:
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1. **THE COMMERCIAL TAX OFFICER,**
   4TH CIRCLE, ERNAKULAM.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, ERNAKULAM.

3. **THE INSPECTING ASSISTANT COMMISSIONER,**
   COMMERCIAL TAXES, ERNAKULAM.

BY SR.GOVT.PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR,J.

WP(C)NO.11095 OF 2007-U

Judgment

The petitioner has approached this Court, challenging Exts.P15 and P16 orders. He challenged Ext.P1 KGST assessment order for the year 2003-04 and CST assessment order for the very same year, by filing STA Nos.459/07 and 460/07. Along with those appeals, the petitioner filed stay applications. Those stay applications were jointly heard and disposed of by Ext.P15 order, directing the petitioner to remit an amount of Rs.15,000/- as condition for stay. The amount payable under Ext.P1 is only Rs.18,381/- and under Ext.P2 is only Rs.38,719/-. Ext.P3 assessment order relates to the year 2004-05. As per that order, the balance tax demanded is Rs.26,893/- apart from an amount of Rs.1,045/- as interest. The petitioner filed STA No.470/07 against the said assessment order. The stay application filed along with that appeal was disposed of by Ext.P16 order, directing the petitioner to pay 1/3rd of the balance tax due for the year 2004-05. At the time of hearing, the learned counsel for the petitioner submitted that he is mainly aggrieved by the omission of the assessing authority to adjust the excess amount paid by him towards tax for other years towards the liability arising under Exts.P1 to P3.

2. I heard the learned Government Pleader appearing for the respondents also. Having regard to the facts of the case, only nominal amounts were directed to be paid under Exts.P15 and P16. Therefore, it is unnecessary for this Court to interfere with Exts.P15 and P16. The petitioner may move the competent

authority, pointing out that the recovery of the amounts due under the impugned assessment orders is unjustified, as substantial amounts are remaining to be refunded to him. If such a motion is made along with a copy of this Judgment within one week from today, the 1st respondent will consider and grant relief to the petitioner if his claim is found genuine, within two weeks from the date of receipt of that representation. In view of the above direction, the petitioner is granted one month's time from today to pay the amount due under Exts.P15 and P16.

The Writ Petition is disposed of as above.

30.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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